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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,621	09/30/2003	Gregory Ehlers	68,185-002	4196
27305	7590	06/21/2005	EXAMINER	
HOWARD & HOWARD ATTORNEYS, P.C. THE PINEHURST OFFICE CENTER, SUITE #101 39400 WOODWARD AVENUE BLOOMFIELD HILLS, MI 48304-5151			TRIEU, VAN THANH	
			ART UNIT	PAPER NUMBER
			2636	

DATE MAILED: 06/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/674,621

Applicant(s)

EHLERS, GREGORY

Examiner

Van T Trieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-38 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-38 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 March 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## ***DETAILED ACTION***

### ***Drawings***

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because a sheet of replacement drawing (Figures 2 and 3) is missing from the last Amendment filed on 28 March 2005. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-6, 8-16, 19, 20, 30, 31, 37 and 38 are rejected under 35 U.S.C. 102(b) as being anticipated by **Gorman** [US 5,913,827].

Regarding claim 1, the claimed control point (the microprocessor 72 provides the logic, signal recognition and identification, and instructions to the exercise parameter control unit 74 for controlling the exercise intensity in accordance with a desire exercise profile based on the target person and in response to the received heart rate conditions of the

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target person, see Figs. 7 and 8, col. 4, lines 55-59, col. 14, lines 24-32 and col. 16, lines 55-61); and the control point (the exercise parameter control 74, see Fig. 8, col. 16, lines 55-62 and col. 17, lines 42-47); and the remote node (the wrist unit 14 contains a receiver 46 for receiving a person's heart rate or ECG signals from the chest unit 12, which is analyzed by a signal evaluator 48 and to determine if any errors therein, correcting of the error signal, then automatically transmit the signal to a remote receiver 46 located at the exercise machine via wireless communication. The microprocessor 72 of the exercise machine 70 will control to operate and adjust the intensity of the machine in response to the received signals from the wrist unit 14, see Figs. 4-8, col. 4, lines 17-67, col. 5, lines 1-33, col. 10, lines 40-67, col. 11 to col. 17 and col. 18, lines 1-64).

Regarding claim 3 the claimed controller generates an alarm response to the signal (the microprocessor 72 detects a sequence of errors in the received data, it notifies the user via the console display 83, see Fig. 8, col. 18, lines 60-61).

Regarding claim 4, the claimed control point for detecting a presence of the remote node (the microprocessor 72 detects the presence of the wrist unit 14 within a desired distance, see col. 4, lines 35-41).

Regarding claim 5 the claimed the predetermined condition being an absence of the remote node, which reads upon the microprocessor 72 detects a sequence of errors in

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the received data, which includes of absence of the wrist unit 14 when the wrist unit 14 is not within a desired range, see Fig. 7, col. 4, lines 35-41, col. 11, lines 52-63, col. 12, lines 33-35).

Regarding claim 6 all the claimed subject matters are cited in respect to claim 4 above, and including the predetermined distance, see col. 4, lines 35-41.

Regarding claim 8, the claimed predetermined condition being the presence of the remote node, which reads upon the microprocessor 72 detects the received data when the wrist unit is presence or within a desired range, see Figs. 7 and 8, col. 4, lines 35-41, col. 11, lines 52-63, col. 12, lines 33-35.

Regarding claim 9, all the claimed subject matters are cited in respect to claims 1 and 8 above.

Regarding claim 10, all the claimed subject matters are cited in respect to claims 1 and 8 above, and including the second node located respect to a second operator, which reads upon the second exerciser carries a wrist unit 14 having different ID code and personal profile, for use of the same exercise machine 70, see, col. 16, lines 27-32.

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Regarding claim 11, the claimed predetermined conditions relate to health conditions of the operator (the heart rate, ECG signal and biomedical response of a user/exerciser, see Fig. 7, col. 4, lines 20-62).

Regarding claim 12, the claimed the predetermined condition is related to the consciousness of the operator, which reads upon the biomedical response of the user/exerciser regarding to the heart rate and ECG signal.

Regarding claim 13, the claimed the predetermined condition is related to the attentiveness of the operator, which reads upon the continuously monitoring exercise activities of the user/exerciser carrying the wrist unit 14.

Regarding claim 14, the claimed remote node is embodied in one of a watch (the wrist unit 14, see Fig. 7).

Regarding claim 15, the claimed remote node is embedded in a device worn or carried by a person (the chest unit 12 and/or the wrist unit 14).

Regarding claim 16, the claimed device operative to remotely control the one of a machine or process (the microprocessor 72 of the exercise machine controls the intensity of the machine in response to the received data from the wrist unit 14, see Figs. 7 and 8).

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Regarding claim 19, the claimed remote node generates the signal at periodic times (the chest unit 12 and wrist unit 14 generates every digital pulse in pulse train 20 in the cycle of the encoded data signal, see Figs. 2 and 3A, col. 11, lines 8-16).

Regarding claim 20, the claimed remote nodes generates the signal in response to receiving a request signal from the control point (the user is asked to enter some information about the exercise, override the automatic profile and generate of new biomedical information data to the microprocessor 72, see Fig. 8, col. 17, lines 62-67 and col. 18, lines 1-33).

Regarding claim 30, all the claimed subject matters are cited in respect to claims 1 and 10 above.

Regarding claim 31, all the claimed subject matters are cited in respect to claims 1 and 10 above.

Regarding claim 37, all the claimed subject matters are cited in respect to claims 1 and 10 above.

Regarding claim 38, all the claimed subject matters are cited in respect to claim 1 above.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Gorman** [US 5,913,827] in view of **Wentworth** [US 6,529,131]

Regarding claim 17, **Gorman** fails to disclose the predetermined distance is programmable. However, **Gorman** teaches that the predetermined distance is programmable. However, **Gorman** discloses a programmable microprocessor 72 for receiving the detected data for controlling of the exercise machine 70, which is within a proximity distance from a wrist unit 14 worn by a user/exerciser, see Figs. 7 and 8, col. 4, lines 33-41 and col. 17, lines 13-20. **Wentworth** suggests that the apparatus for determining distance and location of a subordinate or wrist unit 62 relative to a master unit 10. The wrist unit 62 and master unit 10 have the same electronic circuitry including a GPS receiver 96, LCD display 98, RAM 102, programmable microprocessor 104 and RF transceiver 106. The microprocessor 104 is programmed with a predetermined distance for allowing communications between the wrist unit 62 and the master unit 10, see Figs. 1-4, col. 2, lines 9-31, col. 6, lines 5-9, col. 7, lines 22-35, col. 8, lines 44-67, col. 9, lines 1-45 and col. 10, lines 25-61. Therefore, it would have been obvious to one skill in the art at the time the invention was made to implement the



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programming proximity distance of **Wentworth** to the programmable microprocessor of **Gorman** for providing flexibility to a user/exerciser to control their own exercise environment with continuously monitoring biomedical conditions to operate the exercise machine.

4. Claims 17, 18 and 21-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gorman** [US 5,913,827] in view of **Stubbs et al** [US 6,736,759]. Regarding claim 17, **Gorman** fails to disclose the device for communicating with an external system for monitoring a condition of the operator, and for reporting the condition to the external system. However, **Gorman** teaches that the chest unit 12 is wireless communicates with the wrist unit 14 and then wirelessly transmits the biomedical data to the exercise machine 70 for displaying and controlling the operation functions of the machine. An external memory unit 84 allows any piece of exercise equipment to be used by any individual. The user/exerciser can take his/her external memory unit 84 to any gym for entering a desired profile interacts with the microprocessor 72, see Figs. 4-8, col. 17, lines 53-61. **Stubbs et al** suggests that an exercise monitoring system includes an electronic position device 5, a physiological monitor 6 and a display unit 7. The display unit 7 is configured for linking to a personal computer PC 8 by a cable, infrared or other means. The data is stored in the PC 8 for later retrieval and analyzing, see Figs. 1-4, col. 3, lines 14-37, col. 7, lines 57-67 and col. 8, lines 1-5. Therefore, it would have been obvious to one skill in the art at the time the invention was made to substitute the wireless link PC of **Stubbs et al** for the

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external memory unit of **Gorman** for use at any exercise equipment located at the Gym, Home or Hospital, and any biomedical data is recorded for later retrieval and analyzing by physician or doctor.

Regarding claim 18, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claim 17 above, but **Gorman** fails to disclose the condition including a position. However, **Gorman** teaches that the personal monitor for monitoring a biomedical condition of a user/exerciser located within a predetermined distance from the exercise machine 70, see Figs. 7 and 8, col. 4, lines 16-41. **Stubbs et al** suggests that the electronic position device 5 includes a GPS module 30 for tracking location of a user/exerciser along with other physiological data at any locations, see Figs. 1-3, col. 3, lines 1-37 and col. 6, lines 36-64. Therefore, it would have been obvious to one skill in the art at the time the invention was made to implement the GPS module of **Stubbs et al** to the personal monitor of **Gorman** for tracking position and location of the user/exerciser at any place since the GPS for monitoring location is available to the market.

Regarding claim 21, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claims 18 and 20 above.

Regarding claim 22, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claims 1 and 17 above.

Regarding claim 23, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claims 1 and 18 above.

Regarding claim 24, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claims 3 and 23 above.

Regarding claim 25, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claims 1 and 18 above.

Regarding claim 26, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claims 3 and 23 above.

Regarding claim 27, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claims 15 and 21 above.

Regarding claim 28, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claim 21 above.

Regarding claim 29, all the claimed subject matters are discussed between **Gorman** and **Stubbs et al** in respect to claim 28 above.

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5. Claims 32-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Gorman** [US 5,913,827] in view of **Hayday** [US 4,932,910]

Regarding claim 32, **Gorman** fails to disclose the control point being embodied in a recovery beacon. However, **Gorman** teaches that the personal monitoring comprises a RF data receiving 46 and a microprocessor 72 for receiving, controlling and instruction to the exercise parameter control unit 74 for controlling the exercise intensity in accordance with a desired exercise profile, see Fig. 8, col. 16, lines 55-62 and col. 17, lines 42-47. **Hayday** suggests that an emergency location marker system 11 for locating and rescuing an individual or downed aircraft in the water, comprising a flotation and an emergency position-indicating radio beacon EPIRP 48 to provide an RF signal indicating the position of the emergency location marker system 11 to facilitate satellite tracking, see Figs. 1-3, col. 1, lines 12-19, col. 2, lines 31-53 and col. 8, lines 12-39. Therefore, it would have been obvious to one skill in the art at the time the invention was made to substitute the EPIRP of **Hayday** for the RF data receiving of **Gorman** for tracking and recovering of individual or downed aircraft lost in the ocean since both use of radio frequency transmission for communication to locate the individual or downed aircraft.

Regarding claim 33, all the claimed subject matters are discussed between **Gorman** and **Hayday** in respect to claim 32 above, wherein the recovery EPRIP is floatable.

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Regarding claim 34, all the claimed subject matters are discussed between **Gorman** and **Hayday** in respect to claim 32 above, wherein the recovery EPRIP is life boat beacon, see Figs. 1 and 2 of **Hayday**.

Regarding claim 35, all the claimed subject matters are discussed between **Gorman** and **Hayday** in respect to claims 1 and 32 above, and the storing at last known position as a function of the transmitted position (the computer system 90 for storing of emergency data information including map information, GPS validate reliability and historical database/data profile).

Regarding claim 36, all the claimed subject matters are discussed between **Gorman** and **Hayday** in respect to claim 35 above.

### ***Response to Arguments***

6. Applicant's arguments filed on 28 March 2005 have been fully considered but they are not persuasive. Because,

#### Applicant's arguments:

(A) **Hoffman** does not disclose a system that includes a controller for controlling a machine or process. Nor does Hoffman disclose a controller that controls operation of the machine or process in response to the presence or absence of a fault signal generated automatically by a remote node located with respect to the operator in response to the detection of a predetermined condition.

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Response to the arguments:

(A) Upon the Amendment filed date above, a new reference of Gorman is provided to make the rejection smoother, wherein Gorman discloses a wrist worn unit detects of user/exerciser biomedical condition, heart rate, ECG and error/fault signals, which are wirelessly received by the microprocessor for automatically control the operation and intensity of an exercise machine accordance thereto.

***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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8. Any inquiry concerning this communication or earlier communications from examiner should be directed to primary examiner **Van Trieu** whose telephone number is (571) 272-2972. The examiner can normally be reached on Mon-Fri from 7:00 AM to 3:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. **Jeffery Hofsass** can be reached on (571) 272-2981.

A handwritten signature in black ink, appearing to read 'Van Trieu', with a long, sweeping horizontal line extending to the right.

**Van Trieu**  
**Primary Examiner**  
**Date: 6/15/05**